

CG-B-CC-0178

COPY

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December 29, 2005

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VIA HAND DELIVERY

Federal Communications Commission
Office of Secretary

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, NW
Washington, DC 20054

Attention: Chief, Consumer and Governmental Affairs Bureau
Re: Petition for Partial Exemption or, in the Alternative, Clarification

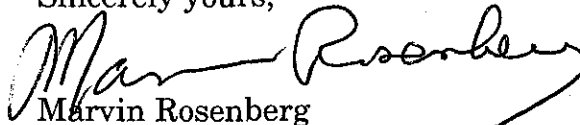
Dear Ms. Dortch:

Transmitted herewith on behalf of Griffin Licensing L.L.C., the licensee of KWTB(TV), Oklahoma City, Oklahoma (Facility ID No. 25382) and Griffin Entities, L.L.C. the licensee of KOTV(TV) Tulsa, Oklahoma (Facility ID No. 35434), and KWB(TV), Muskogee, Oklahoma (Facility ID No. 78322) is an original and two copies of a Petition for Partial Exemption or, in the Alternative, Clarification of the Closed Captioning Rules.

An extra copy of the filing is enclosed. Please date-stamp and return it to the courier.

Should you have any questions concerning this matter, please contact the undersigned.

Sincerely yours,


Marvin Rosenberg

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Griffin Licensing, L.L.C. and Griffin)	Docket No. CGB-CC-_____
Entities, L.L.C.)	
)	
Petition for Partial Exemption from)	
Certain Closed Captioning Rules or, in the)	
Alternative, Clarification)	

To: Secretary, FCC
For: Chief, Consumer & Governmental Affairs Bureau

**PETITION FOR PARTIAL EXEMPTION OR, IN THE ALTERNATIVE,
CLARIFICATION**

Griffin Licensing, L.L.C., the licensee of broadcast television station KWTB(TV), Oklahoma City, Oklahoma (Facility ID No. 25382) and Griffin Entities, L.L.C., the licensee of broadcast television stations KOTB(TV), Tulsa, Oklahoma (Facility ID No. 35434) and KWB(TV), Muskogee, Oklahoma (Facility ID No. 78322) (collectively, "Griffin"),¹ by its attorneys and pursuant to Section 79.1(f) of the Commission's rules, 47 C.F.R. § 79.1(f), hereby submit this Petition to request an exemption from the closed captioning rules for various community-oriented programming broadcast by the stations for the reasons set forth herein. In the alternative, Griffin requests that the Commission clarify that this type of programming is included within the self-implementing exemption contained in Section 79.1(d)(8) of the rules, 47 C.F.R. § 79.1(d)(8). Griffin takes its licensee responsibilities very seriously and seeks to assure compliance with the closed captioning rules.

Background

¹ All three stations are commonly owned. None of the stations is in a top 25 television market.

Currently, television stations must provide at least an average of 1350 hours of closed captioning vide programming per quarter.² As of January 1, 2006, television stations must provide closed captioning for 100% of the new programming broadcast, unless the programming qualifies for one or more of the listed exemptions.³ Griffin is in compliance with the current rule, and it is making a concerted effort to ensure compliance with the January 1, 2006 requirements.

However, as the Commission's rules recognize, the January 1, 2006 requirements may present an undue burden for many broadcast stations. The rules set forth thirteen self-implementing exemptions of the closed captioning rules.⁴ Griffin submits that the exemption for "[p]rogramming that is locally produced by the video programming distributor, has no repeat value, is of local public interest, is not news programming, and for which the "electronic news room" technique of captioning is unavailable" is relevant to its particular situation. In addition, a video programming provider, video programming producer or video programming owner may petition the Commission for a full or partial exemption from the closed captioning requirements.⁵

Request for Exemption

As indicated, Griffin is currently in compliance with the closed captioning requirements because it captions the vast majority of the programming broadcast. However, Griffin broadcasts several locally produced community-oriented programs, and it is not totally clear, from the rule and record in support thereof, whether these programs are subject to the closed captioning rules. Specifically, Griffin broadcasts the following programs that it believes are exempt from the closed captioning rules:

² 47 C.F.R. § 79.1(b)(1)(iii).

³ *Id.* § 79.1(b)(1)(iv).

⁴ *Id.* § 79.1(d)(1)-(13).

⁵ *Id.* § 79.1(f).

<u>Program</u>	<u>Time Period</u>	<u>Station(s)</u>
1. <i>The Oklahoma Sports Blitz</i>	Sundays 10:20 pm to 11 p.m.	KOTV KWTW
2. <i>Tulsa University Coaches Show</i>	Sundays at 11 pm	KOTV KWBT-2 nd run
3. <i>Discover Oklahoma</i>	Saturdays at 6:30 pm	KOTV-2 nd run KWTW KWBT
4. <i>Oklahomans</i>	Airs 2 times a year once in June and once in December Wednesdays 7-8 pm or 8-9 pm	KOTV-2 nd run KWTW-2 nd run KWBT
5. <i>Gimme The Mic</i>	5 half hour shows Mondays in the summer at 7 pm One finale 7-8pm	KOTV KWBT
<i>Coaches' Shows</i>	Saturdays 11 am Half hour except during the summer	KWTW
8. <i>Half hour/Hour sports specials</i>	Various	KWTW KOTV KWBT
9.. <i>Oklahoma Centennial Land Run</i>	Various Summer 2007 Possible	KOTV KWTW KWBT
10. <i>Inside Native America</i>	Monthly	KOTV KWBT
11. <i>MDA Telethon</i>	Annually	KWTW

Griffin submits that all of the above programming (the “Programs”) appear to fall into that “limited class of truly local materials” for which the Section 79.1(d)(8) exemption was designed to apply.⁶ First, most are locally produced by Griffin (with minimal budgets). Second, they are all of local public interest and are not considered “news” programming and the electronic newsroom technique is not available because the programming is unscripted. Third, the Programs are exactly the type of local programming for which Congress recognized that “the cost to caption [them] may be prohibitive given the market demand for such programs . . .” and thus included the exemption.⁷ Fourth, the economic support for the Programs is “inherently fragile,” given the minimal budget and audience for them compared to other programming broadcast by Griffin.⁸ Fifth, the Programs are not remunerative in themselves and are essentially broadcast in furtherance of Griffin's public interest service to its communities. Finally, all of the Programs are either “nonprofessional sports” or “live unscripted talk shows.” Therefore, Griffin submits that the Programs overwhelmingly satisfy the exemption criteria.

The only possible reason to not exempt the Programs (and the reason for this petition) is that the Programs are rebroadcast. (There are programs that KOTV would like to rebroadcast on KWBT, and both stations are within the Tulsa DMA.) However, they are only broadcast once per market and appeal to only one “local audience.” ¶ 158. Griffin therefore requests that the Commission clarify that the Programs fall under the Section 79.1(d)(8) exemption.

If these programs must be closed captioned, Griffin is faced with the decision of whether to continue to broadcast these important local programs given the negative financial impact of

⁶ *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, Report and Order, MM Docket No. 95-176, FCC 97-279, 13 FCC Rcd 3272, ¶ 158 (rel. Aug. 22, 1997) (“*Report and Order*”).

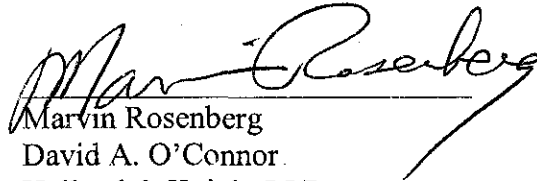
⁷ *Report and Order* ¶ 143.

⁸ *Report and Order* ¶ 145.

the associated captioning requirements, and, therefore, Griffin requests an exemption from the closed captioning rules for these types of programs.

Respectfully submitted,

GRIFFIN LICENSING, L.L.C.
GRIFFIN ENTITIES, L.L.C.

A handwritten signature in black ink, appearing to read "Marvin Rosenberg", is written over a horizontal line.

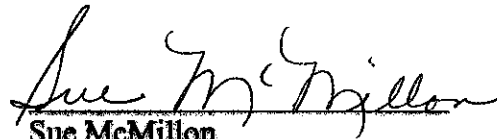
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Their Counsel

December 29, 2005

AFFIDAVIT

I, Sue McMillon, Vice President of Griffin Licensing, L.L.C. and Griffin Entities, L.L.C., hereby declare under penalty of perjury, that the following is true and correct to the best of my knowledge, information and belief:

- 1. I have reviewed the foregoing "Petition for Partial Exemption or, in the Alternative, Clarification."**
- 2. Except for facts of which official notice may be taken, I have personal knowledge of the facts contained therein, and those facts are true and correct to the best of my personal knowledge and belief.**



**Sue McMillon
Vice President
Griffin Licensing, L.L.C.
Griffin Entities, L.L.C.
7401 N. Kelley Avenue
Oklahoma City, OK 73111**

Date: December 28, 2005